THE CONSTITUTION OF NEPAL, 1962

PART 1
PRELIMINARY

1. Constitution as the Fundamental Law

This Constitution is the fundamental law of Nepal and all laws inconsistent with it shall, to the extent of such inconsistency, and subject to the provisions of this Constitution, be void.

2. The Nation

(1) Having common aspirations and united by the common bond of allegiance to the Crown, the Nepalese people irrespective of religion, race, caste or tribe collectively constitute the nation.

(2) It is the indefeasible and inalienable right of the nation to develop its political, economic and cultural life and to determine its relations with other nations, in accordance with its own genius and traditions.

3. The State

(1) Nepal is an independent, indivisible and sovereign monarchical Hindu State.

(2) The territory of Nepal shall comprise of:

(a) the territory at the commencement of this Constitution; and

(b) such other territory as may be acquired after the commencement of this Constitution.

4. National Language

The national language of Nepal is the Nepali language in the Devanagari script.

5. National Flag

The national flag of Nepal, as handed down by tradition, consists of two juxtaposed triangular figures with crimson-coloured base and deep blue borders, there being a white emblem of the crescent moon with eight rays visible out of sixteen in the upper part and a white emblem of twelve rayed sun in the lower part. The method to draw out the flag and other particulars relating to it are laid down in schedule 1.

6. National Anthem, etc.

(1) The Royal salute as given in Schedule 2 is the national anthem of Nepal

(2) Laligurans (Rhododendron Arboreum) is the national flower, crimson colour is the national colour, the cow is the national animal and Danfay (the lophophorus) is the national bird of Nepal.

(3) The coat-of-arms of Nepal shall be as laid down in Schedule 3.

Provided that the size of the coat-of-arms may be enlarged or reduced as required and that such colour may be used therein as may be prescribed by His Majesty's Government.

PART 2
CITIZENSHIP

7. Citizenship at the Commencement of the Constitution

Every person who has his domicile in Nepal and:

(a) who was born in Nepal; or

(b) either of whose parents was born in Nepal; or

(c) who, as a woman, has any kind of relation with a citizen of Nepal constituting matrimony in accordance with the laws and customs of Nepal; or

(d) who has already obtained a certificate of citizenship in accordance with the laws of Nepal;

shall be a citizen of Nepal at the commencement of this Constitution.

8. Acquisition and Termination of Citizenship to be regulated by Law

(1) After the commencement of this constitution, the acquisition and termination of citizenship of Nepal and other matters related thereto shall be regulated by law.

(2) Laws to be made in pursuance of clause (1) shall, inter alia, stipulate that a foreigner may qualify for the acquisition of citizenship if

(a) he can read and write the national language of Nepal;

(b) he, engaged in an occupation, resides in Nepal;

(c) he has taken steps to renounce the citizenship of the country of which he is a citizen; and

(d) he has resided in Nepal for a period of not less than two years in the case of a person of Nepalese origin, and for a period of not less than twelve years in case of a person other than of Nepalese origin.

(3) Laws to be made in pursuance of clause (1) shall, inter alia, stipulate that the citizenship of a person may be terminated if:

(a) he has raised arms or has made an attempt to raise arms against Nepal or has committed any other offence against the state; or

(b) he has not served or avoids serving the State, during war or any other emergency, in the manner prescribed by law.

PART 3
FUNDAMENTAL DUTIES AND RIGHTS

9. Fundamental Duties of the Citizen

(1) Devotion to the Nation and loyalty to the State are the fundamental duties of every citizen.

(2) To exercise one's rights with due regard to the law and without infringing upon the rights of others is also fundamental duty of every citizen.

10. Right of equality

(1) All citizens shall have the right to equal protection of the laws.

(2) No discrimination shall be made against any citizen in the application of general laws on ground of religion, race, sex, caste, tribe or any of them.

(3) There shall be no discrimination against any citizen in respect of appointment to the government service or any other public service only on grounds of religion, race, sex, caste, tribe or any of them

11. Right to Freedom

(1) No person shall be deprived of his life or personal liberty save in accordance with the law.

*(2) Subject to the other provisions of this Part all citizens shall have the right to the following freedoms:

(a) Freedom of speech and expression;
(b) Freedom to assemble peaceably and without arms;
(c) Freedom to form unions and associations;
(d) Freedom to move to or reside in any part of Nepal; and
(e) Freedom to acquire and enjoy property or to dispose it of by sale or otherwise.

+(2) a. Notwithstanding anything contained in clause (2), no political party or any other organization, union or association motivated by party politics shall be formed or caused to be formed or run.

(3) No person shall be punished for an act which was not punishable by law when the act was done, nor shall any person be subject to a punishment greater than that prescribed by law for an offence when the offence was committed.

(4) No person shall be prosecuted and punished more than once for the same offence in any court.

(5) No person accused of any offence shall be compelled to be a witness against himself.

(6) No person who is arrested shall be detained in custody without being informed, as is practicable, of the grounds of such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

Explanation – For the purpose of this clause, 'legal practitioner' includes any person who, under the law for the time being in force, is authorized to represent any other person in any court.

(7) Every person who is arrested and detained in custody shall be produced before a judicial authority within a period of twenty-four hours of such arrest, excluding the period of journey from the place of arrest to such authority, and no such person shall be detained in custody beyond the said period except on the order of such authority.

(8) Nothing in clauses (6) and (7) shall apply to a person who:

(a) is a citizen or an enemy state; or
(b) is arrested or detained under a law providing for preventive detention.

* Amended by the First Amendment of the Constitution.

+ Inserted by the First Amendment of the Constitution

12. Right against Exile

No citizen shall be exiled.

13. Right against Exploitation

Traffic in human beings, slavery and forced labour are prohibited. Provided that the prohibition on forced labour shall not be a bar to provide for compulsory service by law for public purposes.

14. Right to Religion

Every person may profess his own religion as handed down from ancient times and may practice it having regard to the tradition.

Provided that no person shall be entitled to convert another person from one religion to another.

15. Right to Property

No person shall be deprived of his property save in accordance with the law.

16. Right to Constitutional Remedies

Right to proceed in accordance with Article 71, for the enforcement of the right conferred by this Part, is guaranteed.

17. Restrictions on the Exercise of Fundamental rights for Public Good

(1) Laws may be made for the sake of public good to regulate or control the exercise of fundamental rights specified in this Part.

(2) If it is stated in the preamble of any Act that it has been made for any or all of the following purposes, such Act, as well as any rule, order or bye-laws made under such Act and having the force of law, shall be deemed to be a law made for the public good:

(a) For the preservation or the security of Nepal;
(b) For the maintenance of law and order;
(c) For the maintenance of friendly relations with foreign states;
(d) For the maintenance of good relations among the people of different classes or professions or between the people of different areas;
(e) For the maintenance of good conduct, health, comfort, economic interest, decency or morality of the people in general;
(f) For the protection of the interest of minors or women;
(g) For the prevention of internal disturbance or external invasion;
(h) For the prevention of contempt of court or contempt of the National Panchayat; and
(i) For the prevention of any attempt to subvert this Constitution or any other law for the time being in force or for the prevention of any other attempt of like nature.

PART 4*
DIRECTIVE PRINCIPLES OF PANCHAYAT SYSTEM

18. Application of the Principles

The principles laid down in this Part are for general guidance and they shall not be enforceable by any court.

19. Aims and Objectives

1 The aim of the Panchayat System shall be to promote the welfare of the people by setting up a society which is democratic, just, dynamic and free from exploitation by bringing about harmony in the interests of different classes and professions from a comprehensive national outlook.

2 The political objective of the Panchayat System shall be to mobilize, to the maximum possible extent and on a voluntary basis, the national genius and resources for the setting up of a society as envisaged by clause (1) by associating, through gradual decentralization, the maximum number of representatives of the people at all levels of the administration and by making the general public vigilant and conscious.

3 The economic objective of the Panchayat System shall be to establish a system that will provide maximum participation of the general public in the economic uplift of the country as well as to encourage private enterprise, and wherein no individual or class is able to exercise undue economic pressure upon another individual or class.

4 The social objective of the Panchayat System shall be to establish a social life, harmonious and based upon morality, by eliminating the obstacles in the process of mobilizing the general public for setting up a society as envisaged by clause (1).

* Amended by the First Amendment of the Constitution.

PART 5
HIS MAJESTY

20. His Majesty-the Source of Power

(1) In this Constitution the words ‘His Majesty’ mean His Majesty the King for the time being reigning, being a descendant of King Prithivi Narayan Shah and adherent of Aryan culture and Hindu religion.

(2) The sovereignty of Nepal is vested in His Majesty and all powers-executive, legislative and judicial emanate from Him. These powers are exercised by His Majesty through the organs established by or under this Constitution and other laws for the time being in force keeping in view the interest and wishes of His Majesty’s subjects according to the highest traditions of the Shah dynasty.

21. Law relating to Succession to the Throne

(1) Nothing in this Constitution shall affect the law, customs and usage relating to the succession to the Throne by the descendants of His Majesty,

(2) His Majesty shall have exclusive power of enacting, amending and repealing the law relating to the succession to the Throne by the descendants of His Majesty.

***22. Regent, Council of Regency, Royal Representative and Council of Royal Representatives**

In this Constitution any reference to His Majesty shall, unless the subject or context otherwise requires, include reference to Regent or Council of Regency, if empowered in relation to the matter in question, and to the Royal Representative or the Council of Royal Representatives exercising powers under Article 86.

* Amended by the First Amendment of the Constitution.

PART 6
RAJ SABHA

23. Raj Sabha

(1) There shall be a Raj Sabha in Nepal, the functions of which shall be as laid down in this Constitution.

*(2) The Raj Sabha shall consist of the following persons:

(a) The prime Minister, ex-officio member;
(b) The Chief Justice, ex-officio member;
(c) The Chairman of the National Panchayat, ex-officio member;
(d) The Deputy Prime Minister, ex-officio member;
(e) Ministers of the Crown, ex-officio members;
(f) The Bada Gurujyu, ex-officio member;
(g) The Commander-in-Chief, ex-officio member;
(h) The Auditor-General, ex-officio member;
(i) The Chairman of the Public Service Commission, ex-officio member;
(j) The Chief Election Commissioner, ex-officio member;
(k) The Attorney-General, ex-officio member;
(l) The Mool Purohit, ex-officio member; and
(m) Such other members as His Majesty may appoint from among persons who are renowned in different fields of national life or who have rendered distinguished service to the country or who are otherwise considered fit to be members of the Raj Sabha.

*(3) A person appointed under sub-clause (m) of clause (2) shall remain a member during the pleasure of His Majesty.

(4) A meeting of Raj Sabha shall be summoned by the command of His Majesty is not present at the meeting, shall be presided over by the Crown Prince, if He has attained the age of the eighteen years, and if the Crown prince has not attained the age of eighteen years, by a Vice-Chairman generally of specifically designated by His Majesty and in case no Vice-Chairman is so designated, the meeting shall be

presided over by such member as the Raj Sabha by a resolution may decide at that meeting.

* Amended by the First Amendment of the Constitution.

(5) Notwithstanding anything contained in clause (4), a meeting of the Raj Sabha shall be summoned, under the following circumstances, by the Secretary of the Raj Sabha and such meeting shall be presided over by such person as may be decided by a resolution in that meeting:

(a) on the demise of His Majesty or if His Majesty proclaims His abdication; or

(b) if at least one-fourth of the total number of members of the Raj Sabha (of whom at least four shall be Ministers of the Crown) sign a requisition declaring that His Majesty is unable, by reason of mental or bodily infirmity, to command the summoning of a meeting.

(6) The meeting summoned under the circumstances mentioned in sub-clause (a) of clause (5) shall proclaim:

(a) the accession to the throne of the heir-apparent to His Majesty, in accordance with the law, customs and usage relating to the succession to the Throne; or

(b) the appointment of a Regent or a Council of Regency, subject to the pertinent laws, in case His Majesty is below the age of eighteen years.

Provided that the Regency or the Council of Regency proclaimed under this sub clause shall terminate when His Majesty attains the age of eighteen years.

(7) (a) The meeting summoned under the circumstances of sub-clause (b) of clause (5) shall decide whether His Majesty is unable, by reason of mental or bodily infirmity, to command the summoning of a meeting; and

(b) If the Raj Sabha decides in the affirmative by a majority of at least two thirds of its total membership, it shall proclaim the Crown Prince to be the Regent if He has attained the age of eighteen years and, if He has not, shall, subject to the pertinent laws, proclaim a Regent or a Council of Regency.

Provided that the Regency or the Council of Regency proclaimed under this sub-clause shall, subject to the pertinent laws, terminate on the demise of abdication by His Majesty or when His Majesty informs the Raj Sabha that He is fit to resume the royal functions.

(8) The Regent of the Council of Regency proclaimed under clause (6) or (7) shall have no power to decide or to give approval to anything which shall be prejudicial to the interest of His Majesty or of His successor.

(9) Nothing in sub-clause (a) of clause (6) shall prevent the heir apparent to His Majesty from exercising the powers of the Crown pending a proclamation under that sub-clause.

(10) (a) A Standing Committee consisting of seven to fifteen members of the Raj Sabha designated by His Majesty may perform all functions of the Raj Sabha under this Constitution in the name of the Raj Sabha except those mentioned in clauses (5), (6) and (7).

Provided that the above provision shall not prevent His Majesty, if He so desires, from causing any decision taken by the Standing Committee in the name of the Raj Sabha to be placed at the meeting of the Raj Sabha for its consideration

*(b) His Majesty shall preside over the Standing Committee mentioned in sub-clause (a), or He shall designate any member of the standing Committee as its Chairman. The Secretary of the Raj Sabha shall be the Secretary of the Standing Committee.

*(c) The term of office of the members of the Standing Committee of the Raj Sabha shall be for four years and they shall be paid such remuneration as His Majesty may prescribe.

(d) The Standing Committee mentioned in sub-clause (a) may, if it so desires, associate other members of the Raj Sabha, during its deliberations on any subject.

(11) The Raj Sabha or its Standing Committee shall transact its business notwithstanding the absence of any of its members at any meeting if:

(a) notice of such meeting has been sent to all who were members on the date of the issue of the notice or that such notice has been published in the Nepal Gazette; and

(b) at least one-third of the total number of members are present.

(12) His Majesty may, in addition to the matters on which He has to consult the Raj Sabha according to the Constitution, also seek its advice in connection with the performance of any of His other functions.

(13) Unless otherwise provided for, the decisions of the Raj Sabha or of its Standing Committee shall be taken by a majority of the members present and voting.

(14) Subject to this Article, the Raj Sabha or its Standing Committee may make rules for the conduct of its business, and until such rules are made, its business shall be conducted by rules made by His Majesty.

(15) The Secretary of the Raj Sabha shall be appointed by His Majesty.

(16) Members of the Raj Sabha shall take oath in the manner and form prescribed by His Majesty.

* Amended by the first amendment of the Constitution.

PART 7
COUNCIL OF MINISTERS

24. Exercise of the Executive Power

(1) The executive power of Nepal shall be exercised in accordance with this Constitution and other laws for the time being in force by His Majesty either directly or through Ministers of other officers subordinate to Him.

(2) The question whether His Majesty has consulted any person of authority under the provisions of this Constitution and whether any person or authority has submitted

any advice or recommendation and, it so, what advice or recommendation has been submitted, shall not be inquired into by any court.

(3) All executive acts done by His Majesty under this Constitution except where, by the rules made pursuant to clause (4), it is provided that any such act shall be expressed in the name of His Majesty, shall be expressed to have been done in the name of His Majesty's Government.

(4) Orders, decisions and other instruments made and executed in the name of His Majesty or His Majesty's Government shall be authenticated in such manner as may be specified in rules to be made by His Majesty, and the validity of an order, decision, or instrument which is so authenticated shall not be called in question on the ground that it is not an order, decision, or instrument made or executed by His majesty or by His Majesty's Government as the case may be.

***25 Formation of the Council of Ministers and its Functions**

(1) There shall be a Council of Ministers to aid and advise His Majesty in the exercise of His functions. It shall be the duty of the Council of Ministers to give general directions to, and in accordance with the provisions of this Constitution, other laws for the time being in force and such directives as may from time to time be given by His Majesty in the interest of Nepal and the Nepalese people.

(2) The Council of Ministers, as may be required, shall consist of the Prime Minister, Deputy Prime Minister and Ministers of the Crown.

(3) His Majesty shall constitute the Council of Ministers under His own chairmanship or under the chairmanship of the Prime Minister.

(4) His Majesty, if present at a meeting of the Council of Ministers, shall preside over it.

***26 Ministers of the Crown**

(1) The Prime Minister, the Deputy Prime Minister and the ministers shall be appointed by His Majesty.

(2) The Prime Minister, the Deputy Prime Minister and the Ministers shall be appointed from among the members of the National Panchayat.

Provided that any person, who is not a member of the National Panchayat, may also, if His Majesty deems fit, be so appointed for a period not exceeding six months.

(3) His Majesty, if He deems fit, may appoint the Prime Minister after consultation with the National Panchayat in the manner prescribed by Him and the term of office of the Prime Minister so appointed shall be five years, unless pursuant to the provisions of clause (5), he is relieved of his office earlier.

(4) The Ministers shall be collectively and severally responsible to His Majesty.

(5) The Prime Minister shall be relieved of his office if:

(a) his resignation in writing is accepted by His Majesty;

(b) he ceases to be a member of the National Panchayat;

(c) he, having been appointed in accordance with the proviso to clause (2), has failed to become a member of the National Panchayat within a period of six consecutive months;

(d) a resolution, passed by a majority of total membership of the National Panchayat and by a two-thirds majority of the members present and

voting, to the effects that he does not have the support of the national Panchayat, is approved by his Majesty; or

(e) His Majesty relieves him of his office.

* Amended by the first Amendment of the Constitution.

(6) The Minister of the Crown other than the prime Minister shall be relieved of his office if:

(a) his resignation in writing is accepted by His Majesty;

(b) he ceases to be a member of the National Panchayat;

(c) he, having been appointed in accordance with the proviso to clause (2), has failed to become a member of the National Panchayat within a period of six consecutive months;

(d) The Council of Ministers having been constituted under the chairmanship of the Prime Minister, the Prime Minister ceases to hold office;

(e) The Council of Ministers not having been constituted under the chairmanship of the Prime Minister a resolution passed by a majority of total membership of National Panchayat and by a two-thirds majority of the members present and voting, to the effect that he does not have the support of the National Panchayat is approved by His Majesty; or

(f) His Majesty removed him from office.

+26A. Minister of State

(1) His Majesty may, as may be required, appoint Ministers of State from among the members of the National Panchayat.

(2) The provisions of clause (6) of Article 26, excepting those of sub-clauses (c) and (e), shall apply to the Minister of State also.

27. Assistant Ministers

(1) His Majesty may appoint Assistant Ministers from among the members of the National Panchayat to assist any Minister of the Crown in the discharge of his functions.

*(2) The provisions of clause (2) of article 26 excepting those of sub-clauses (c) and (e) shall apply to Assistant Ministers also.

***28 Remuneration**

The remuneration of the Ministers of the Crown, the Ministers of State and the Assistant Ministers shall be determined by an act and until so determined shall be as determined by the rules made by His Majesty.

29. Conduct of Government Business

(2) The allocation and transaction of business of His majesty's Government shall be done in accordance with the rules approved by His Majesty.

(3) The question whether the rules made under clause (1) have or have not been observed, shall not be inquired into in any court.

+ Inserted by the First Amendment of the Constitution.

* Amended by the First Amendment of the Constitution.

PART 8
LOCAL PANCHAYATS AND NATIONAL PANCHAYAT
CHAPTER – 1
LOCAL PANCHAYATS

30. Village Panchayat

(1) The Village Assembly shall be the base of the Panchayat System. A Village Assembly shall consist, as may be notified in accordance with law, of one village or a group of villages.

(2) Every Village Assembly shall elect an executive committee which shall be known as Village Panchayat.

(3) The constitution, functions, duties and powers of the Village Assembly and the Village Panchayat shall be defined by law.

31. Town Panchayat

(1) There shall be Town Panchayats in such cities as may be notified in accordance with law.

(2) The constitution, functions, duties and powers of the Town Panchayat shall be defined by law.

32. District Panchayat

(1) In every district there shall be a District Assembly which shall include the representatives elected by the Village Panchayats and the Town Panchayats of that district.

(2) Every District Assembly shall elect an executive committee which shall be known as District Panchayat.

(3) The constitution, functions, duties and powers of the District Assembly and the District Panchayat shall be defined by law.

*+**33. Zonal Assembly**

(1) In every zone there shall be a Zonal Assembly which shall include all the members of the District Panchayats of that zone.

(2) The constitution, functions duties and powers of the Zonal assembly shall be defined by law

* Amended by the First Amendment of the Constitution.

*+ Amended by the First Amendment of the Constitution. This Article came into force on February 28, 1968

CHAPTER – 2
NATIONAL PANCHAYAT

34. Constitution of National Panchayat

(1) There shall be a National Panchayat in Nepal which shall be the apex of the Panchayat System and its constitution, functions duties and powers shall be as laid down in this Constitution.

(2) The National Panchayat shall consist of the following members:
- (a) Members elected by Zonal Assembled as specified in Schedule 4;
- (b) Members elected by the Class Organisations and Professional Organisation, as specified in Schedule 5;
- (c) Members nominate by His Majesty numbering fifteen per cent of the total number of members elected under sub-clauses (a), (b) and (c)

(3) Every Zonal Assembly shall elect members for the National Panchayat from among the members of the Zonal Assembly in such number as specified in Schedule 4 and in the manner prescribed by law.

Provided that a Zonal Assembly, while electing members for the National Panchayat, shall elect at least one member from each district within the zone.

(4) Members specified in Schedule 5 and 6 shall be elected in the manner prescribed by law.

(5) Schedules 4,5 and 6 may be amended from time to time by an Act.

***35 Qualification for Membership**

In order to become a member of the National Panchayat, a person shall:
- (a) be a citizen of Nepal;
- (b) have attained the age of twenty-five years;
- (c) be a member of a Class Organisation or Professional Organisation pursuant to the provision of Article 67B;
- (d) not be a servant of the Crown other than a Minister, Minister of state or Assistant Minister;
- (e) not have been expelled in accordance with clause (2) of Article 38; and
- (f) not have been disqualified under any Act.

Provided that the restriction laid down in clause (e) may be waived in respect of any person by His majesty at such time and in such circumstances as He may deem fit.

***36. Decision as to the Disqualification of the Members**

If a question arises whether any member of the National Panchayat possesses or has ceased to possess any of the qualifications as laid down in Article 35, final decision in this respect shall be made by His Majesty after consultation with the Election Commission.

37. Term of Office of the Members

The term of office of the members of the national Panchayat shall be follows:

(a) Six years in case of members specified in sub-clause (a) of clause (2) of Article 34; and

(b) Four years in the case of members specified in sub-clause (b) (c) or (d) of clause (2) of Article 34.

*++ Provided that:

(a) for the first time, the term of the elected members specified in sub-clause (a) of clause (2) of article 34 shall be two years for one-third of such members and four years for another one-third. Which of such members shall have a term of two years and which of them for four years shall be determined by the Chairman of the National Panchayat by lot in the manner prescribed by him; and

(b) for calculating the term of a member pursuant to the provisions of this Article, the year during which he was elected or nominated, irrespective of the date of such election or nomination, shall be counted as one year and the term shall be deemed to end on the last day of the month of + Chaitra of the year in which the term expires.

* Amended by the First Amendment of the Constitution.

\+ This Article shall came into force on such date as His Majesty be a notification published in the Nepal Gazette, may appoint.

++ This proviso came into force on April 1, 1968

38. Vacation of seats

(1) The seat of a member of the National Panchayat shall become vacant:

- (a) upon his death; or
- (b) if, by notice in writing to the Chairman of the National Panchayat, he resigns his sear; or
- (c) if he ceases to have the qualifications mentioned in Article 35; or
- (d) if, without the leave of the National Panchayat, he absents himself from the meetings of the National Panchayat for continuous period of three months; or
- (e) on the expiry of the term of office under Article 37.

*(2) If a commission consisting of the Chairman of the National Panchayat, the Chairman of the Standing Committee of the Raj Sabha or any member of that Committee designated by His Majesty, submits a report with a finding that a member of the National Panchayat has not conducted himself in a manner befitting his office, and if the report is approved by His Majesty, such member of the national Panchayat shall be deemed to have been expelled and on such expulsion his seat shall automatically become vacant.

Provided that a member of the National Panchayat who has been so charged shall not be denied a reasonable opportunity for defending himself before the commission.

** (2) a. Procedure regarding the business of the commission under clause (2) shall be regulated by the rules made by His Majesty.

(3) When a seat in the National Panchayat falls vacant, it shall be filled as soon as possible. The vacancy shall be filled in the same manner, wither by election or nomination, according as the member whose seat has fallen vacant was elected or nominated.

(4) When a seat of a member falls vacant before the expiry of his term of office, the election or nomination, as the case may be, for such seat shall be only for the remainder of the term.

+ Last month of the Nepalese Calender Year.

* Amended by the First Amendment of the Constitution.

** Inserted by the First Amendment of the Constitution.

39. Chairman

(1) The Chairman of the National Panchayat shall be appointed by His Majesty, on the recommendation of the National Panchayat shall be appointed by His majesty, on the recommendation of the National Panchayat, from among its members.

(2) The term of office of the Chairman of the National Panchayat shall be two years and he shall be eligible for reappointment.

(3) The office of the Chairman of the National Panchayat shall become vacant:

(a) if his resignation from his office is accepted by His majesty; or

(b) if he ceases to be a member of the National Panchayat; or

(c) on the expiry of the term of his office; or

(d) if His Majesty removes him from his office on the recommendation made by a majority of two-thirds of the total membership of the National Panchayat.

(4) If the office of the Chairman of the National Panchayat falls vacant or if the Chairman of the National Panchayat is unable to perform the duties of his office on account of illness or any other reason, the Vice-Chairman of the National Panchayat may be authorized by His Majesty to perform the duties of the Chairman.

(5) When the office of the Chairman of the National Panchayat falls vacant, it shall be filled as soon as possible in accordance with clause (1).

(6) Pending the appointment of the Chairman of the National Panchyat and also, when there is no Vice-Chairman of the National Panchayat, a person designated by His Majesty shall act as the Chairman of the National Panchayat.

40. Vice-Chairman

(1) The members of the National Panchayat shall elect a member from among themselves to be the Vice-Chairman of the National Panchayat.

(2) In the absence of the Chairman of the National Panchayat the Vice-Chairman of the National Panchayat shall preside over the meetings of the National Panchayat and, if authorized under clause (4) of Article 39, shall also perform other duties of the Chairman of the National Panchayat.

(3) The term of office of the Vice-Chairman of the National Panchayat shall be two years and he shall be eligible for reappointment.

(4) The office of the Vice-Chairman of the National Panchayat shall become vacant.

(a) if, by notice in writing to the Chairman, he resigns his office; or

(b) if he ceases to be a member of the National Panchayat; or

(c) on the expiry of the term of his office.

(5) When the office of the Vice-Chairman of the National Panchayat falls vacant, it shall be filled as soon as possible in accordance with clause (1).

41. Steering Committee

(1) There shall be a Steering Committee consisting of twenty one members to advise the Chairman of the National Panchayat with regard to proper conduct of business before the National Panchayat and also in other matters. Other functions of the Steering Committee shall be as laid down in the rules of the National Panchayat.

*(2) The Chairman and the Vice-Chairman of the National Panchayat shall be the ex-officio Chairman and Vice Chairman respectively of the Steering Committee, and the Prime Minister, Ministers for Finance, Home Affairs, Panchayat and Law shall be the ex-officio members thereof. Other members of the Steering Committee shall be elected by the members of the National Panchayat in the manner laid down in the rules of National Panchayat.

(3) The term of office of the members of the steering Committee, except that of the ex-officio members shall be two years.

* Amended by the First Amendment of the Constitution.

+41.A. Other Committees

(1) There shall be committees of the National Panchayat on various matters with a view to associating to a greater extent the members of the National Panchayat in the administration of the country.

(2) The constitution and functions of the committees formed pursuant to clause (1) shall be regulated by the rules made by His Majesty.

(3) Subject to the provisions of clauses (1) and (2), provisions for other committees concerning the business of the National Panchayat shall be as provided by the rules of the National Panchayat.

42. Session

(1) After the commencement of this Constitution His Majesty shall, as early as possible, summon the members of the National Panchayat to its first session.

(2) Thereafter subject to the provisions of this Constitution His Majesty may from time to time summon the members of the National panchayat to its other sessions.

(3) His Majesty may prorogue the sessions of the National Panchayat.

Provided that the period between the prorogation of one session and the beginning of the next session shall not ordinarily exceed six months.

(4) While the National Panchayat stands adjourned, His Majesty may, if He thinks it necessary to summon a meeting of the National Panchayat at an earlier date, fix the date and time of such meeting, and the meeting shall be held on the date and at the time so fixed.

(5) Subject to its rules the National Panchayat may adjourn by a motion passed.

*(6) The proceedings of the National Panchayat or any of its committees shall not be held in open.

Provided that;

(a) such proceedings may at any time be held in open if His Majesty so deems fit;

+Inserted by the first Amendment of the Constitution.

* Amended by the First Amendment of the Constitution.

(b) nothing contained in this clause shall apply to any member of the Royal Family, any member of the Raj Sabha and any person who, in the opinion of the Chairman of the National Panchayat, is concerned with the business of the National Panchayat;

(c) any member of a Local Panchayat or of the executive and Professional Organisations may observe the meeting of the National Panchayat if its Chairman after consultation with the Steering Committee, gives permission;

(d) any person may observe the meeting on the occasion of an address to the National Panchayat by His Majesty or by any distinguished invitee, if the Secretary of the National Panchayat gives permission; and

(e) a summary record of the proceedings of every meeting of the National Panchayat shall be published as soon as possible for information of the general public in accordance with the rules of the National Panchayat.

43. Address and Message by His Majesty

(1) His Majesty may address the National Panchayat and for that purpose may command the attendance of the members.

(2) His Majesty may send messages to the National Panchayat and the national Panchayat after considering the contents of the message as soon as possible shall submit its opinion to His majesty.

44. Address to His majesty by the National Panchayat

The National Panchayat may, by a motion passed by a majority of the members, present an address to His Majesty.

45. Restrictions of Debate

(1) No discussion shall take place in the National Panchayat with regard to the conduct of His Majesty, Her Majesty the Queen and the successors to the Throne.

Provided that nothing in this clause shall be deemed to restrict criticism of His Majesty's Government.

(2) No discussion shall take place in the National Panchayat with respect to the conduct of a judge in the discharge of his duties.

Provided that this clause shall not be deemed to restrict discussion with respect to the conduct of the Chief Justice or any other judge of the Supreme Court in the discharge of his duties, on a motion in connection with sub-clause (b) of clause (4) of Article 69.

(3) No discussion shall take place in the National Panchayat with respect to any matter relating to a cause pending in any court in Nepal.

46. Voting

Save as otherwise provided in this Constitution any question put before the National Panchayat shall be decided by a majority of the members present and voting. The person presiding shall not ordinarily have a right to vote, but in the event of an even division of votes he shall exercise the casting vote.

47. Power to transact the Business of the National Panchayat in case of Vacancy

The National Panchayat shall have power to transact its business notwithstanding any vacancy in the membership thereof, and any proceeding therein shall be valid notwithstanding any vacancy, or if, on the other hand, it is subsequently discovered that some person not entitled to do so, took part in the proceeding.

48. Penalty for Unauthorised Presence of Voting

(1) If a person sits or votes as a member of the National Panchayat before he has complied with the requirements of article 52 or when he knows that he is not qualified for membership thereof, he shall be liable in respect of every day in which he so sits or votes to a penalty of one hundred rupees and that penalty shall be realized as a sum due to the Government.

*(2) Nothing in clause (1) shall apply to a Minister of the Crown appointed under the proviso to clause (2) of article 26, who shall be entitled to sit and take part in the proceedings of the National Panchayat.

49. Quorum

If at any time during a meeting of the National Panchayat, the attention of the person presiding is drawn to the fact that less than one-third of the total number of members of the national Panchayat are present, the person presiding may, subject to the rules of the National Panchayat, either suspend the proceedings of the meeting until the quorum is complete or adjourn the meeting till the next day scheduled for the meeting.

50. Procedure relating to the Conduct of Business

(1) The National Panchayat may, subject to the provisions of this Constitution, make rules in respect of itself or its committees for the conduct of business, for the maintenance of order at meetings and for regulating any other matter.

(2) Until the rules are made in accordance with clause (1) the matters referred to in that clause shall be regulated by rules made by His Majesty.

51. Privileges of the National Panchayat

(1) Subject to the provisions of this Constitution and the rules of the National Panchayat, there shall be full freedom of speech in the National Panchayat and no member of the National Panchayat shall be arrested, taken into custody or be liable to proceedings in any court in respect of anything said or any vote cast by him in the National Panchayat or in any of 'its committees.

(2) The National Panchayat shall have full powers to regulate. its internal matters and only the National. Panchayat shall have authority to decide whether any proceeding of the National Panchayat is regular or otherwise and no question in respect thereof shall be raised in any court.

(3) No proceedings of the National. Panchayat shall be interpreted in such a way as to question the bona fides of the National Panchayat and nothing shall be published

which deliberately puts wrong or misleading construction on anything spoken by any member.

(4) No member or officer of the National Panchayat shall be arrested:

(a) during the session of the National Panchayat; and

(b) during the period between the issuance of the notice of the summoning of the session and prior to the commencement of the session.

Provided that nothing in this clause shall be deemed to prohibit the arrest any member or officer in accordance with the law providing for preventive detention, and in case of such arrest of any member or officer, the Chairman of the National Panchayat shall be immediately informed by the officer making such arrest.

(5) No person shall be liable to any proceeding in any court in respect of the publication of any report or other papers or of votes or proceedings under the authority of the National Panchayat.

(6) Any breach of the privileges of the National Panchayat shall be deemed to constitute contempt of the National Panchayat, and the National Panchayat shall have the power to decide whether or not there has been any breach of such privileges.

(7) (a) If a person commits contempt of the National Panchayat, the officer presiding over a meeting of the National Panchayat may, upon a decision taken by the National Panchayat, issue an order sentencing such person to a term of imprisonment which may, at the most, extend to the end of the session.

Provided that no person charged with such offence shall be punished without having been given an opportunity to show cause as to why he should not be punished.

(b) The officer presiding over a meeting of the National Panchayat shall, in respect of the offence punishable under this clause, have power to issue a warrant of arrest or a summons, to summon witnesses, to take evidence, to cause documents to be produced and to record statements.

(c) The National Panchayat shall be entitled to cause the detention of any person whom it has power to punish under this clause, by placing him either in the charge of any of its officer or in any government jail.

52. Oath

Every member of the National Panchayat, before taking his seat for the first time shall have to take oath before the person presiding over a meeting of the National Panchayat in the manner and form prescribed by His Majesty.

53. Remuneration

The remuneration of the Chairman, the Vice-Chairman and other members 0[the National Panchayat shall be determined by an Act and until so determined shall be as determined by rules made by His Majesty.

54. Secretary

The Secretary of the National Panchayat shall be appointed by His Majesty.

PART 9
LEGISLATIVE PROCEDURE

55. Introduction of Bill

Subject to this Constitution and the rules of the national Panchayat, any member of the national Panchayat may introduce a bill in the National Panchayat

Provided that:

*(a) before any bill or amendment in respect of any of the following matters is introduced by a member other than a Minister of the Crown or a Minister of State or an Assistant Minister, prior sanction of His Majesty shall be necessary and such sanction shall be obtained through a Minister of the Crown or a Minister of State or an Assistant Minister-

(i) Imposition or collection of or increment in taxation;

(ii) Appropriation or expenditure of any amount or increment in the amount sought to be appropriated or expended out of the Consolidated Fund or any other government fund; or

(iii) Any matter relating to the civil list of the Royal Family;

(iv) Any matter relating to the debt or guarantee for which His Majesty's Government is liable; or

(v) Any matter relating to the Royal Armed Forces.

(c) No bill, which declares in its preamble that it has been made for any or all of the purposes listed in clause (2) of Article 17 shall be introduced without the sanction of His Majesty, and before giving such sanction His Majesty may consult the Raj Sabha.

56. Assent to a Bill

(1) When a bill is passed by the National Panchayat, it shall be present to His Majesty for His assent and if His Majesty is willing to give His assent, he shall notify His assent ordinarily within one month of the presentation of the bill and if He desires to withhold His assent or desires to give His assent subject to amendments, He shall proceed in accordance with clause (2).

(2) If His Majesty desires to withhold His assent or desires to give assent with amendments to a bill passed by the National Panchayat, He shall, after consulting the Raj Sabha, return the bill to the National Panchayat with message, and the National Panchayat shall, after giving consideration to such message, submit its recommendations to His Majesty as soon as possible, and His Majesty, after having considered such recommendations, shall finally decide whether to give or to withhold His assent or to give His assent subject to amendments.

(3) If His Majesty, after consulting with the Raj Sabha, deems it expedient that any bill discussed in the National Panchayat but not passed, be passed in the form in which it was introduced in the National Panchayat or with amendments, He may send a message accordingly, stating reason thereof to the National Panchayat and the National Panchayat shall, after giving consideration to such message as soon as possible, submit its recommendations to His Majesty, and His Majesty may,

after having considered such recommendations, give His assent to the bill in the form in which it was introduced in the National Panchayat or with amendments.

(4) When assent is given by His Majesty to a bill in accordance with this Article, such bill shall become an Act and such assent shall be deemed to have been given as soon as the Royal Seal is affixed to the bill.

* Amended by the First Amendment of the Constitution

57. Ordinance

(1) If at any time, except when the National Panchayat is in session, His Majesty is satisfied that circumstances exist which render it necessary for Him to take immediate action, He may, after consulting the Raj Sabha if He so desires, promulgate such ordinance as the circumstances appear to Him to require and which is not inconsistent with the provisions of this Constitution.

(2) An ordinance promulgated under clause (1) shall have the same force and effect as on an Act.

Provided that any such ordinance –

(a) shall be laid before the National Panchayat within seven days of its session subsequent to such promulgation;

(b) may be withdrawn at any time by His majesty; and

(c) shall *ipso facto* cease to have effect after forty-five days of the commencement of the session of the National Panchayat if it is not withdrawn pursuant to sub-clause (b).

PART 10
FINANCIAL PROCEDURE

58. No Tax to be levied or Loans to be raised except in accordance with Law

(1) No tax shall be levied and collected except in accordance with law.

*(2) No loan shall be raised or guarantee given by His Majesty's Government except in accordance with law.

59. Consolidated Fund

Except His majesty's private revenues, and the religious endowments and local taxes, all revenues received by His majesty's Government, all loans raised on the security of these revenues, and all moneys received in repayment of any loan made under the authority of an Act shall, unless otherwise provided by an Act, be credited to a public fund to be known as the Consolidated Fund.

60. Expenditure from the Consolidated Fund

No expenditure shall be incurred out of the Consolidated Fund or any other public fund other than the Emergency Fund except in accordance with an Appropriation Act or an Act made under Article 64 or 65 and except such sums as are otherwise chargeable on the Consolidated Fund.

61. Expenditure chargeable on the Consolidate Fund

The following expenditure shall be charged on the Consolidated Fund:

(a) The civil list of the Royal Family as provided by an Act;
*(b) The remuneration payable to:
   (1) The Chief Justice and the other judges of the Supreme Court;
   (2) The Chairman and the Vice-Chairman of the National Panchayat;
   (3) The Chairman and the members of the Standing Committee of the Raj Sabha;

*Amended by the First Amendment of the Constitution.

   (4) The Auditor-General;
   (5) The Chairman and the members of the Public Service Commission; and
   (6) The Chief Election Commissioner and other Election Commissioners.
*(c) The administrative expenses of the Supreme Court, the National Panchayat, the Raj Sabha, the department of the Auditor-General, the Public Service Commission and the Election Commission.
*(d) All charges relating to the debts for which His Majesty's Government is liable.
(e) Any sum required to satisfy any judgment or decree made by any court against His Majesty's Government , and
(f) Any other sum declared by an Act to be charged on the Consolidated Fund.

62. Estimates of Revenue and Expenditure

(1) His Majesty shall, in respect of every financial year, cause to be laid before the National Panchayat an annual estimate showing among others the following items:
   (a) the estimate of revenue;
   (b) the sums required to meet the charges on the Consolidated Fund; and
   (c) the sums required to meet the expenditure to be provided for by an Appropriation Act.

(2) The sums required to meet the expenditure to be provided for by an Appropriation Act shall be specified under separate heads in an Appropriation Bill.

63. Supplementary Estimates

(1) His Majesty shall, in respect of any financial year, cause to be laid before the National Panchayat, a supplementary estimate if it is found:
   (a) that the sum authorized to be spent for a particular service by the Appropriation Act for the current financial year is insufficient or that if a need has arisen for expenditure upon new services not provided for by the Appropriation Act for that year; or
   (b) that the expenditure made during that financial year is in excess of the amount authorized by the Appropriation Act.
(2) The sums included in the supplementary estimates shall be specified under separate heads in a supplementary Appropriation Bill.

* Amended by the First Amendment of the Constitution.

64. Votes on Account

(1) Notwithstanding anything in the foregoing provisions of this Part, any portion of the expenditure estimated for the financial year may, pending the enactment of the Appropriation Bill, be incurred in advance by an act duly passed.

(2) A Vote on Account shall not be submitted until the estimates of Revenue and Expenditure have been presented in accordance with the provisions of Article 62 and the sums involved in the Vote on Account shall not exceed one-third of the estimated of expenditure for the financial year.

(3) The expenditure incurred in accordance with the Vote on Account Act shall be included in the appropriation Bill.

65. Votes of Credit

(1) Notwithstanding anything in the foregoing provisions of this Part, if owing to a local or national emergency, due to either natural cause or threat of external aggression or internal disturbance or otherwise, His Majesty is satisfied that it is impracticable or undesirable from the standpoint of the security or interest of the State to specify the details required under Article 62, He may cause to be laid before the National Panchayat a Vote of Credit Bill giving only such particulars of the expenditure proposed which He may consider desirable.

(2) The expenditure incurred under the Vote of Credit Act shall be included in a Supplementary Appropriation Bill as soon as possible.

66. Contingency Fund

An act may create a Contingency Fund into which shall be paid from time to time such sums as may be determined by an Act. Unforeseen expenditure shall be met out of this Fund as approved by His Majesty. The amount of the expenditure so met shall be reimbursed as soon as possible by a Supplementary Appropriation Act.

67. Act relating to Financial Procedure

Matters relating to the transfer of the sums appropriated for one head to another and other financial procedures may be regulated by an Act.

*+PART 10A
CLASS ORGANISATIONS AND PROFESSIONAL ORGANIZATIONS

67A. Provisions regarding Class Organizations and Professional Organisations

(1) Class Organisations and Professional Organisations shall be formed and run with a view to protect and promote the interest of various classes and professions and to integrate and utilize their united strength for the development of the Nation.

(2) The organization, powers and functions of the Class Organisations and Professional Organisations shall be determined by an Act.

*+PART 10B
MEMBERS OF PANCHAYATS AND CLASS ORGANISATIONS AND PROFESSIONAL ORGANISATIONS

67B. Membership of an Organisation to be compulsory for Membership of Panchayat

Membership of any one of the Class Organisations or Professional Organisations as determined by an Act shall be compulsory in order to be elected as a member of a Local Panchayat or the National Panchayat.

* Inserted by the first Amendment of the Constitution.

\+ This Part came into force on October 24, 1967.

67C. Codes of Conduct of Members of Panchayats and Class Organisations and Professional Organisations

(1) Members of the different levels of Panchayat and members of Class Organisations and Professional Organisations shall conduct themselves in a manner befitting their office.

(2) The conduct referred to in clause (1) shall be regulated as follows:

(a) in the case of members of the National Panchayat, by the rules made by His Majesty in consultation with the Raj Sabhas;

(b) in the case of members of the Central Executive Committee of Class Organisations and Professional Organisations, by the rules made by His Majesty in consultation with the Raj Sabha;

(c) in the case of members of Panchayats other than the National Panchayat, by the rules made by the National Panchayat; and

(d) in the case of members of Class Organisations and Professional Organisations other than the members of the Central Executive Committee, by the rules made by His Majesty's Government in consultation with the Central Executive Committee of the Organisation concerned.

(3) Any contravention of the rules made under clause (2) by a member of the National Panchayat shall be dealt in accordance with clause (2) of article 38 and in the case of contravention by others, such persons shall be liable for expulsion in the prescribed manner from the membership of the Panchayat or Organisation concerned.

PART 11
SUPREME COURT

68. Supreme Court

(1) There shall be a supreme Court of Nepal consisting of a Chief Justice and, unless a larger number is specified by law, not more than six other judges.

(2) The Supreme Court, subject to the provisions of this Constitution, shall be a court of record and shall have the power to impose punishment as prescribed by law for contempt of itself or of courts subordinate to it.

69. Judges of the Supreme Court

(1) His Majesty shall appoint the Chief Justice after consulting, if He so desires, such members of the Raj Sabha as He may deem appropriate and also after consultation with other judges of the supreme Court, and other judges of the

supreme Court shall be appointed by Him after consultation with the Chief Justice.

(2) Subject to the provisions of clause (4) the Chief Justice and any other judge of the Supreme Court shall hold office until he attains the age of sixty-five years.

(3) No person shall be qualified for appointment as Chief Justice of judge of the Supreme Court unless-

*(a) he has held for at least, five years the post of a zonal judge or an equivalent judicial post; or

*(b) he has practiced for at least, seven years in the capacity of a government or private advocate; or

(c) he is, in the opinion of His Majesty, learned in the law.

(4) The Chief Justice and any other judge of the Supreme Court-

(a) may resign his office by submitting a petition in writing to His Majesty; or

(b) may be relieved of his office by His Majesty if a Commission, consisting of a person or persons qualified to be a judge of the Supreme Court, appointed by His Majesty on His own accord or as a result of an address presented to Him by the National Panchayat, reports with a finding that the Chief Justice or the judge, as the case may be, is unable to perform his duties due to incapacity or misbehaviour.

Provided that the Chief Justice or any other judge of the Supreme Court so charged shall not be denied a reasonable opportunity for defending himself before the Commission.

(5) The Commission appointed under sub-clause (b) of clause (4) shall have power similar to that of a court to summon witnesses, to take evidence and to punish for its contempt.

(6) The remuneration and other conditions of service of the chief Justice and the other judge of the Supreme Court shall be as determined by rules made by His Majesty. The remuneration and the other conditions of service of the Chief Justice of any other judge of the Supreme Court shall not be varied to his disadvantage during his term of office.

(7) When the office of the Chief Justice is vacant or when the Chief Justice is, by reason of ill-health or otherwise, unable to perform the duties of his office, the duties of that office shall be performed by such one of the other judges of the Supreme Court as may be appointed by His Majesty to be the Acting Chief Justice.

(8) His Majesty may, after consulting the Chief Justice, appoint as many ad hoc or additional judges as may be necessary for the Supreme Court for such period and with such remuneration and facilities as His Majesty may specify. Provided that such judges shall be required to possess the same qualifications as laid down in clause (3).

(9) No person who has held office as a permanent judge of the Supreme Court shall plead or act in any Court or before any other authority.

70. Ordinary Jurisdiction of the Supreme Court

The Supreme Court shall have jurisdiction as prescribed by law including the jurisdiction to try original cases, to hear appeals or references and to revise non-appealable cases decided by lower courts.-

71. Extra-ordinary Jurisdiction of the Supreme Court

The Supreme Court shall have power to issue directions, orders or writs including writs in the nature of *habeas corpus*, *mandamus prohibition*, *quo warranto* and *certiorari* for the enforcement of rights conferred by Part 3 of this Constitution or for the enforcement, in case where no other remedy is provided, of rights conferred by any other law for the time being in force.

* Amended by the First Amendment of the Constitution

Provided that nothing in this Article shall apply in relation to matters falling within the jurisdiction of a Court-Martial.

72. Supreme Court not to overrule its own Decision

The Supreme Court shall not itself overrule its final decisions.

Provided that the Supreme Court –

(a) may review any decision made by it on such terms and conditions as may be prescribed by law; and

(b) may revise its previous decision in a case and finally decide in accordance with law if His Majesty issue a command for the revision of that case (already decided by the Supreme Court) on the recommendation of a Judicial committee appointed for that purpose on the application of the concerned party within the time fixed by law.

73 Law declared by the Supreme Court to be binding

The law declared by the Supreme Court in case within its jurisdiction as conferred by this Constitution or other laws for the time being in force, shall be binding on all courts.

Provided that the law declared by the Supreme Court before the commencement of this Constitution may not be binding on the supreme Court as a precedent after the commencement of this Constitution.

74. Judicial service Commission

*(1) There shall be a Judicial Service Commission consisting of the Chief Justice, the Minister of Justice and the Chairman of the Public Service Commission. His Majesty's Government may, on the recommendation of this Commission and the accordance with law, make permanent appointment, transfer and promotion to the gazetted posts of the Judicial service, and give departmental punishment to officials of such posts.

Provided that His Majesty's Government shall consult the Public Service Commission before making permanent appointment for the first time of any person, not in the government service, to a gazetted post of the Judicial Service or for promoting a person from a no-gazetted post in the Judicial Service to a gazetted post in that Service.

(2) Other powers, function and procedure of the Judicial Service Commission shall be as prescribed by law.

PART 12
AUDITOR-GENERAL

75. Auditor-General

(1) There shall be an Auditor-General or Nepal who shall be appointed by His Majesty after consulting, if He so desires, the Raj Sabha.

(2) The Auditor-General shall hold his office until the expiration of his term of office. Provided that –

(a) he may resign his office by submitting a petition in writing of His Majesty; or

* Amended by the First Amendment of the Constitution

(b) he may be removed from his office on the same grounds and in the same manner as a judge of the Supreme Court.

(3) The tenure of office, remuneration and other conditions of service of the Auditor-General shall be determined by an Act and until so determined shall be as determined by rules made by His Majesty. The tenure of office, remuneration and other conditions of service of the Auditor-General shall not be varied to his disadvantage during his term of office.

(4) A person who has held office as an Auditor-General shall not be eligible for appointment in government service.

76. Functions and Powers of the Auditor-General

*(1) The accounts of all the departments and office of the Government and of all the courts as well as the offices of the Supreme Court, the National Panchayat, the Raj Sabha, and the offices of the Public Service Commission and the Election Commission, and , also, the accounts of the government owned corporate bodies, shall be audited by the Auditor-General in the manner prescribed by law, The Auditor-General and his deputies shall at all times be entitled to have access to all documents relating to such accounts.

(2) The accounts of all the departments and offices of the Government and of the courts shall be kept in such from as may be prescribed, subject to the Act relating to audit, by the Auditor-General and until so prescribed the existing form shall be maintained.

(3) Other functions of the Auditor-General relating to audit shall be as determined by law, and in that respect he may exercise such powers as are conferred on him by the respective law.

(4) The Auditor-General shall submit to His Majesty an annual report on the work done by him under this Article, and His Majesty shall cause such report to be laid before the National Panchayat.

PART 13
PUBLIC SERVICE COMMISSION

77. Public Service Commission

(1) There shall be a Public Service Commission of Nepal consisting of such number of members as His Majesty may prescribe. One of such members, as may be designated by His Majesty, shall be the Chairman of the Commission.

(2) At least one-third of the members of the Public Service Commission shall be such persons who have not, at any time during the period of five years immediately preceding, been in government service.

(3) His Majesty shall appoint the members of the Public Service Commission after consultation, if He so desires, with the Raj Sabha.

(4) A member of the Public Service Commission shall hold office for a period of six years from the date of his appointment.

* Amended by the First Amendment of the Constitution.

Provided that-

(a) he may resign his office by submitting a petition in writing to His Majesty; or

(b) he may be removed from his office by His Majesty in accordance with the finding of the Supreme Court on a reference to that Court for its opinion, in case His Majesty after consulting the Raj Sabha feels that the member is unable to perform his duties due to incapacity or misbehaviour.

(5) A member of the Public Service commission charged under sub-clause (b) of clause (4) shall not be denied a reasonable opportunity for defending himself.

(6) The remuneration and the other conditions of service of the members of the Public Service Commission shall be as determined by an Act and until so determined shall be as determined by rules made by His Majesty. The remuneration and other conditions of service of a member of the Public Service Commission shall not be varied to his disadvantage during his tem of office.

(7) A person who has held office as a member of the Public Service Commission shall not be eligible for appointment in government service.

78. Functions of the Public Service Commission

(1) The Public Service Commission shall be consulted-

(a) on legal matters relating to conditions of the civil service.

(b) on the general principles to be followed on matters of appointments and promotions in the civil services or in civil posts;

*(c) on the suitability of candidates in making permanent appointment by recruitment to a permanent civil post or in making temporary appointment to such post for a period exceeding six months;

(d) on the suitability of candidates in making transfer of promotion from one category of civil service to another category of civil service or from any other government service to civil services; and

(e) on matters relating to departmental punishments proposed against any gazetted civil servant.

Provided that in case where under the provisions of the Constitution-

(1) certain powers and functions are allotted to the Judicial Service Commission, those provisions shall be observed; and

(2) an employee, holding a post which does not require consultation with the Public Service Commission, is to be permanently transferred or promoted

to a post for which the consultation with the Public Service Commission is required, such transfer or promotion shall be made only after previous consultation with the Public Service Commission.

*(2) A person, who is henceforth appointed by recruitment to a civil post without consulting the Public Service Commission, shall not be entitled to pension.

(3) His Majesty may consult the Public Service Commission on any matter relating to any government service or post.

* Amended by the First Amendment of the Constitution

+(3)a. The Public Service Commission shall be consulted by the appointing authority in matters relating to any service of a post specified by law, of a government owned corporate body.

(4) For the purpose of this Article all employees of His Majesty's Government except army officers and jawans, officers and other ranks of the police force, and employees appointed to such posts are declared not to be civil posts by an order of His Majesty, shall be deemed to be civil servants and the service or post of such employees as civil service or civil post.

+(4)a. The Public Service Commission may delegate any of its functions under this Article to any of its members or to an officer of His Majesty's government subject to such conditions as it may prescribe.

(5) Subject to the provisions of this Article the procedure of the Public Service Commission shall be as determined by law.

(6) The Public Service Commission shall submit to His Majesty an annual report on the work done by it and His Majesty shall cause such report to be laid before the National Panchayat. His Majesty shall also, whenever the advice of the Public Service Commission has not been accepted, cause to be sent to the National Panchayat with the annual report a memorandum containing reason for such non-acceptance of the advice of the Public Service Commission.

+ Inserted by the First Amendment of the Constitution.

+PART 13 A
ELECTION COMMISSION

78A. Election Commission

(1) There shall be an Election Commission of Nepal consisting of the Chief Election Commissioner and, if required, such other number of Commissioners as His Majesty may prescribe.

(2) The Chief Election Commissioner and other Election Commissioners shall be appointed by His Majesty after consulting, if He so desires, the Raj Sabha.

(3) If, besides the Chief Election Commissioner, other Election Commissioners are also appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) The Chief Election Commissioner and other Election Commissioners shall hold their office for a term specified by law.

Provided that –

(a) he may resign from his office by submitting a petition of His Majesty; or
(b) he may be removed from his office by His Majesty in accordance with the finding of the Supreme Court on a reference to that Court for its opinion, in case His Majesty, after consulting the Raj Sabha, is satisfied that the member is unfit to perform his duties due to incapacity of misconduct.

(5) The Chief Election Commissioner and the Election Commissioner, who has been charged under sub-clause (b) of clause (4), shall not be denied a reasonable opportunity for defending himself.

+ Inserted by the First Amendment of the Constitution

(6) The term of office, remunerations and other conditions of the service of the Chief Election Commissioner and the Election Commissioners shall be determined by an Act and until so determined shall be as determined by rules made by His Majesty. The Term of office, remunerations and other conditions of service of the Chief Election Commissioner or any other conditions of service of the Chief Election Commissioner or any other Election Commissioner shall not be varied to his disadvantage during his term of office.

78B. Functions and Powers of the Election Commission

(1) Elections to various levels of Panchayats and Class Organisations and Professional organizations, in accordance with the provisions of this Constitution and other laws for the time being in force, shall be conducted, supervised, directed and regulated by the Election Commission.

(2) Any election to the upper level of the Panchayat or Organisation made in accordance with clause (1) shall not become invalid only by reason of the fact the election to the lower level of that Panchayat or Organisation has not been held.

(3) The constitution of the Election Tribunal, and the appointment or nomination of members therein shall be made on the recommendations of the Election Commission.

(4) The Election Commission may delegate any of its powers and functions under this Article to the Chief Election Commissioner, other Election Commissioners or to an officer of His Majesty's Government subject to such conditions as it may prescribe.

(5) Powers, functions and procedures of the Election Commission, other than those mentioned is this Constitution, shall be as prescribed by law.

PART 14
ATTORNEY-GENERAL

79. Attorney-General

(1) There shall be an Attorney-General for Nepal who shall be appointed by His Majesty.

(2) No person shall be eligible for appointment as Attorney-General unless he is qualified to be appointed as a judge of the Supreme Court.

(3) The Attorney-General shall hold office during the pleasure of His Majesty. The remuneration and other conditions of service of the Attorney-General shall be determined by an Act and until so determined shall be as determined by rules

made by His Majesty. The remuneration and other conditions of service of the Attorney-General shall not be varied to his disadvantage during his term of office.

80. Duties of the Attorney-General

It shall be the duty of the Attorney-General, if his advice is solicited on constitutional and legal matters, to give advice to His Majesty, His Majesty's Government and such other authorities as His Majesty may specify and to perform such other duties as may be assigned to the Attorney-General by or under this Constitutions and other laws for the time being force.

PART 15
EMERGENCY POWERS

81. Emergency Powers

(1) If His Majesty is of the opinion that a grave emergency exists whereby the security of the whole of Nepal or any part thereof is threatened by war, external aggression or internal disturbance. His Majesty may, be proclamation-

(a) suspend, except this Article, all or any of the Articles of this Constitution or any provision of such Articles; and

(b) assume to Himself all or any of the powers vested in or exercisable by the National Panchayat or any other Government body or authority.

(2) Any proclamation made under sub-clause (1) may be altered or revoked by a subsequent proclamation, and such proclamation shall continue to operate until His Majesty is satisfied after consulting, if He so desires, the members of the steering Committee of the National Panchayat and the members of the Standing Committee of the Raj Sabha, that grave emergency no longer exists.

(3) Laws made by His Majesty after assuming powers under this Articles of this Constitution, *ipso facto* cease to operate at the expiration of six months after the Proclamation ceases to operate under sub-clause (2).

PART 16
AMENDMENT OF THE CONSTITUTION

82. Amendment of the Constitution

(1) His Majesty may, be proclamation, amend this Constitution.

(2) His Majesty shall exercise the power specified in sub-clause (1) only after consulting the Special Committee specified in sub-clause (3) and only when it is consented to by a majority of at least two-thirds of the total membership of that Committee.

(3) A Special Committee consisting of the following members may, after discussion, suggest any change to be made in the draft of the Royal Proclamation for the amendment of this Constitution:

(a) Members of the Standing Committee of the Raj Sabha; and

(b) Members of the Steering Committee of the National Panchayat

(4) A person, elected by the members of the Special Committee formed under sub-clause (3) from among themselves, shall preside over meetings of the committee.

(5) Any amendment, made by His Majesty be a proclamation under this Article shall form an integral part of this Constitution.

PART 17
MISCELLANEOUS PROVISIONS

83. Supreme Command of the Royal Armed Forces

The supreme command of the Royal armed Forces is vested in His Majesty.

***+ 83A. Commander-in Chief**

(1) The Commander-in-Chief of the Royal Armed Forces shall be appointed by His Majesty.

(2) The power, functions and conditions of service of the Commander-in-Chief shall be as regulated by law.

84. Pardon

His Majesty shall have power to grant pardon and to suspend, commute, or remit any sentence passed by any judicial authority or special court or any authority appointed in accordance with an Act.

Provided that in the exercise of the power under this Article His Majesty, if He deems appropriate, may consult the Raj Sabha.

85. Titles, Honours and Decorations

(1) Titles, honours and decorations shall be conferred only by His Majesty.

(2) No citizen of Nepal shall accept any title, honour or decoration from any foreign state except with the approval of His Majesty.

***86 Royal Representative and Council of Royal Representatives**

His Majesty may, by warrant under His Royal Seal, appoint a Royal Representative of a Council of Royal Representatives to Exercise, subject to such conditions as may be prescribed in the warrant, the lay to day functions of His Majesty during His Majesty's absence from Nepal or for any specified period. The functions exercised within the terms and limits prescribed in the warrant by such Royal Representative or the Council of Royal Representatives shall be deemed, for the purposes of this Constitution, to have been exercised by His Majesty.

+86A. Zonal Commissioner**

(1) There shall be a Zonal Commissioner in every zone of Nepal.

(2) The Zonal Commissioner shall be appointed by His Majesty.

(3) The Powers and functions of the Zonal Commissioner shall be regulated by law.

+86B. Zonal Committee**

(1) In every zone there shall be a Zonal Committee to advise the Zonal Commissioner in the exercise of his functions. The Zonal Commissioner shall be the Chairman of the Zonal Committee.

(2) The Zonal Committee shall consist of the Chairmen of District Panchayats with the zone, the Chairmen of Class Organisations and Professional Organisations of zonal level and such other persons, not exceeding five, as may be nominated by His majesty.

(3) The Chairman of the Zonal Assembly shall be the ex-officio Vice-Chairman of the Zonal Committee.

* Amended by the First Amendment of the Constitution

\+ Inserted by the First Amendment of the Constitution

** This Article came into force on July 26, 1967

(4) The term of office of the nominated members shall be two years.

+ 86C. Royal Nepalese Ambassadors and Special Envoys

Royal Nepalese Ambassadors and Special Envoys shall be appointed by His Majesty.

87. Bar of Jurisdiction of Courts

His Majesty shall not be amenable to any court for the exercise of the powers or the performance of the duties of His Office, or for any other act done by Him.

Provided that nothing in this Article shall be construed as restricting any right conferred by law to bring appropriate proceedings against His Majesty's Government or any servant of His Majesty.

88. Tenure of Office of the servants of His Majesty

Except as otherwise provided in this Constitution, the servants of His Majesty shall hold office during the pleasure of His Majesty but the conditions of their service shall be determined by law.

89. Oath

The servants of His Majesty shall be required to take an oath of allegiance and loyalty to His Majesty in the manner and from prescribed by His Majesty.

90. Residuary Powers of His Majesty

All inherent powers relating to matters not provided for in this Constitution or in other laws for the time being in force, shall continue to vest in His Majesty.

PART 18
DEFINITIONS AND INTERPRETATION

91. Definitions and Interpretation

(1) In this Constitution, unless the subject or context otherwise requires –

(a) "Article" means an Article of this Constitution;

(b) "Bill" means a draft of an Act to be presented to His Majesty for His assent;

(c) “Citizen” means a citizen of Nepal;
(d) “Nepal” means the Kingdom of Nepal;
(e) “Petition in Writing” means a petition in writing signed by the person making such petition; and
(f) “Remuneration” means salary, allowances, pension and also includes any remuneration in king.

(2) Unless the subject or context otherwise requires and subject to the provisions of this Constitution the Nepal Laws (Interpretation) Act, 2010 shall apply in the interpretation of this Constitution as it applies in the interpretation of Nepal laws.

+ Inserted by the First Amendment of the Constitution

PART 19
TRANSITIONAL PROVISIONS

92. Existing Laws to remain in Operation

All laws in force immediately before the commencement of this Constitution shall remain in operation in the form in which they are in force until repealed or amended by an Act.

Provided that the laws inconsistent with this Constitution shall, in so far as they are inconsistent, *ipso fact* cease to operate after one year from the commencement of this Constitution.

93. Making of Laws prior to the First Session of the National Panchayat

After the commencement of this Constitution and prior to the sitting of the first session of the National Panchayat His Majesty, in exercise of full legislative powers under this Constitution, may make Acts as may be necessary and the authority specified in such Acts may as required make rules, orders or by-laws having the force of law, under such Acts.

94. Provisions relating to Supreme Court, Public Service Commission, etc.

The existing Supreme Court and all the judges appointed therein, the existing Public Service Commission and all the members appointed therein, the Auditor-General and the Attorney-General in office before the commencement of this Constitution shall be deemed to have been in existence or in office under this Constitution after its commencement.

Provided that the term of office of all such officers shall be as determined before the commencement of this Constitution and notwithstanding anything in this Constitution or any other law for the time being in force His Majesty, if He deems necessary, may transfer or remove any such officer before the constitution of the National Panchayat.

95. Provisions relating to Council of Minister, Ministers and Assistant Ministers

After the commencement of this Constitution and prior to the formation of another Council of Ministers as and when the National Panchayat is constituted, the Council of Ministers at the time of the commencement of this Constitution shall be deemed to be the Council of Ministers under this Constitution.

Provided that His Majesty, if He deems necessary, may change the Ministers and Assistant Ministers during that period.

96. Power to remove Difficulties

If any difficulty arises in bringing this Constitution into force His Majesty may issue such orders as He deems necessary, to remove that difficulty and such orders shall be deemed to have been included in this Constitution.

Provided that no such order shall be made after the constitution of the National Panchayat.

PART 20
SHORT TITLE AND COMMENCEMENT

97. Short Title and Commencement

(1) This Constitution may be called "The Constitution of Nepal".

(2) This Constitution shall come into force on Sunday the First of Poush, Two Thousand and Nineteen years of the Bikram Sambat,+

SCHEDULE 1
(Relating to Article 5)
NATIONAL FLAG

(A) Method of making the Shape inside the Border

(1) On the lower portion of a crimson cloth draw a line AB of the required length from left to right.

(2) From A draw a line AC perpendicular to AB making AC equal to AB plus one third AB. From AC mark off D making line AD equal to line AB. Join BD.

(3) From BD mark off E making BE equal to AB.

(4) Touching E draw a line FG, starting from point F on line AC, parallel to AB to the right hand side. Mark off FG equal to AB.

(5) Join CG.

(B) Method of making the Moon

(6) From AB mark off AH making AH equal to one fourth of line AB and starting from H draw a line HI parallel to line AC touching line CG at point I.

(7) Bisect CF at J and draw a line JK parallel at AB touching CG at point K.

(8) Let L be the point where lines JG and HI cut one another.

(9) Join JG.

(10) Let M be the point where lines JG and HI cut one another.

(11) With centre M and with a distance shortest from M to BD mark off N on the lower portion of line HI.

(12) Touching M and starting from O, a point on AC, draw a line from left to right parallel to AB